

Application No.: 09/875,543
Filing Date: 06/06/2001
Attorney Docket No. 100308

Applicant(s): AVIANI, *et al.*
Examiner: ALINA A. BOUTAH
Group Art Unit: 2143

Remarks

This communication is responsive to the Final Office Action of January 24, 2006. Reexamination and reconsideration of the claims is respectfully requested.

Summary of The Office Action

Claims 1-50 were rejected under 35 USC 103(a) as purportedly being unpatentable over Brendel et al. (US Patent Number 5,774,660), hereinafter referred to as Brendel, in view of Ilnicki et al (US Patent Number 6,751,677), hereinafter referred to as Ilnicki.

The Claims Patentably Distinguish Over the References of Record

35 U.S.C. §103

To establish a prima facie case of 35 U.S.C. §103 obviousness, basic criteria must be met. The prior art reference (or references when combined) must teach or suggest all the claim limitations. MPEP 2143.(A) Section 2131 of the MPEP recites how "[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). This same standard applies to 103 rejections as evidenced by Section 2143(A) of the MPEP, which reads: "The rationale to support a conclusion that the claim would have been obvious is that **all the claimed elements** were known in the prior art and one skilled in the art could have combined the elements as claimed by known methods with no change in their respective functions".

The Office Action concedes that Brendel fails to teach "data transfer approval authorizing the data access device to establish the communication connection to the client by bypassing the data communications device ... and to provide a second response to the second request to the client by bypassing the data communications device through the communication connection established by the data access device as a result of the data transfer approval" as claimed. The Office Action contends that Ilnicki remedies the shortcomings of Brendel.

However, Ilnicki does not teach a data transfer approval. Ilnicki teaches an SSL connection creation protocol used in a proxy environment. (Column 4 lines 25-30). Ilnicki specifies the use of this protocol to set up the connection by the user terminal to the end server through a gateway. The Advisory Action dated 4/21/06 states "[t]he gateway authenticates the client, which later allows the client to connect to the target server." The Advisory Action appears to be implying that authenticating

a client for later connection is equivalent to data transfer approval as claimed. This conclusion is incorrect.

The claimed limitation is not an authentication of a client. Rather the claimed limitation is an approval made by the communications device and sent to the data access device for the data access device to **independently connect** to the client for the transmission of the requested data. This connection does not occur through a gateway as in Ilnicki. Additionally, the statements made in the Advisory Action clearly demonstrate that the actual connection for data is made at a later point in time, not as a result of the initial request and subsequent data transfer approval as claimed. The approval is sent **from** the communications device **to** the data access device **in response to** receiving a first response and upon this approval the connection to the client is established. Ilnicki teaches a connection being created between a client and the gateway and then between the gateway and the server. This series of connections is analogous to the construction of bridge for later use to access a destination whereas the claimed limitations create the bridge in a piece wise manner as it goes and then abandons it for another path to the destination.

The request illustrated in figure 5 of Ilnicki in which the gateway first authenticates the client and thereafter receives a "Hello" message from the user terminal is not a request for data. This request is instead an initial communication from the user terminal to invoke a secured connection. As further shown in figure 5 of Ilnicki, the gateway then authenticates and thereafter forwards the "Hello" message to the target server. The user terminal and the target server complete a handshake over the secured connection. Finally, the user terminal "invokes the target object" (e.g., sends the request for data) over the secured connection established by the gateway (column 8, line 42 to column 9, line 9).

According to Ilnicki, at no time during the handshake process does the gateway forward a data request to the target server prior to setting up the secured

connection because doing so would put the communication at risk of being discovered. (Column 8 lines 62-63)

The rejection of claim 1 is therefore improper because the combination of Brendel and Ilnicki fails to teach each and every limitation as claimed. The rejection of independent claim 11, is also improper because it is similar in scope to claim 1.

Regarding claim 6, contrary to the Office Action's assertion, mere use of a frame checksum in Brendel does not suggest a transmit window as in the claimed invention. They are not equivalent. For example a frame checksum is an error detection mechanism to determine whether a packet transmission failure occurs during a communication. The "current transmit window" in the claimed invention is not used for detection of failures but is instead used to provide a window length for transmitting the second response to the client. Accordingly, the rejection is improper.

Regarding claim 9, the Office Action cites Brendel at column 12 lines 7-29. This passage merely indicates a standard handshake between the client and the load balancer (column 12, lines 23-24). There is no mention or suggestion in the cited reference that the load balancer sends the server an acknowledgment that the client received a message from the server. Claim 9 recites that the data communication device receives an ACK from the client indicating that the client received a communication from the data access device. Further, claim 9 recites that the data communications device sends an ACK to the data access device so that the data access device receives feedback that the client received the communication from the data access device. The portions cited by the Office Action only denote communications between the client and load-balancer and not the server and client as claimed. Therefore, the rejection fails to teach each and every limitation as claimed.

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Regarding claim 45, the Examiner asserts that figure 11 of Brendel teaches the claimed invention. Applicants respectfully submit that the cited figure only indicates that the server receiving a request provides an acknowledgment back to the load-balancer. Thus, the load-balancer uses the acknowledgment to learn that the server received the request, not that the server can handle the request. Accordingly, the cited passage does not teach or suggest the claimed limitations and Applicants respectfully request allowance of claim 45.

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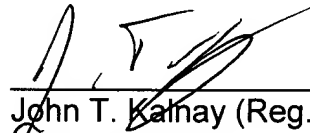
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Conclusion

For the reasons set forth above, the claims are now in condition for allowance. An early allowance of the claims is earnestly solicited.

Respectfully submitted,

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